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Federal Communications Commission  
Washington, D.C. 20554

Office of  
Managing Director

May 16, 2000

86-285

Conny Lennart Kullman  
President & Chief Executive Office  
Intelsat L.L.C.  
3400 International Drive, N.W.  
Washington, D.C. 20008

Re: Petition for Waiver and Deferral of Application Fees

Dear Mr. Kullman:

We reviewed your Petition for Waiver and Deferral of Application Fees (Petition) associated with your application of Intelsat L.L.C. filed on January 19, 2000 to conduct specific actions related to satellites (Application). We limit our decision in this letter to the relief requested in the Petition, although it is necessary to discuss the content of the Application. The Application sought authority to operate and to further construct and operate C-band and Ku-band satellites upon privatization of the global satellite system currently operated by the International Telecommunications Satellite Organization ("INTELSAT").<sup>1</sup> Your Petition requests waiver and deferral of application fees due for authority to operate 17 functioning C-band and Ku-band satellites. In addition, your Petition seeks a waiver and reimbursement of a portion of the fees due on applications for 10 replacement satellites and 13 modifications for functioning satellites. For the reasons discussed below, we grant the portion of your Petition that includes a waiver and deferral of the application fees to operate 17 existing C-band and Ku-band satellites. We deny the remaining part of your Petition that requests a waiver of application fees associated with the proposed replacement satellites and modifications.

You filed this Petition anticipating acquisition of INTELSAT's global satellite system, as part of INTELSAT's plans to form a private commercial company. The privatization of INTELSAT is an important policy goal of the United States, as reflected in the Open-Market Reorganization for the Betterment of International Telecommunications Act recently enacted into law.<sup>2</sup>

As an intergovernmental entity established by international treaty, INTELSAT is not currently licensed by the Commission or any other national licensing authority. Upon

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<sup>1</sup> Intelsat L.L.C. Applications for C-Band and Ku-band Global Satellite System, File Nos. SAT-A/O-20000119-00002 through SAT-A/O-20000119-00018; SAT-LOA-20000119-00019 through SAT-LOA-20000119-00028; SAT-AMD-20000119-00029 through SAT-AMD-20000119-00041 (Jan. 18, 2000) ("Intelsat L.L.C. Applications"). See also Public Notice, Report No. SAT-00035, DA 00-192 (Feb. 2, 2000) which describes each license request.

<sup>2</sup> Pub. Law 106-180, 114 Stat. 48 (2000).

privatization, some national licensing authority must license any follow-on entity, e.g., Intelsat L.L.C. Your Application and Petition seek a timely decision on whether it will be able to operate as a conventionally licensed U.S. system. We conclude that your Petition presented good cause to warrant a waiver and deferral of certain fees for this pre-existing satellite system.

In requesting a waiver and deferral of fees for the 17 currently operating satellites, you generally assert that (1) Comsat Corporation ("Comsat") has already paid the applicable fees when the Commission authorized its use of the 17 currently operating satellites; and (2) that the majority of work ordinarily conducted by the Commission in processing satellite applications will not be necessary. As for the request for waiver and reimbursement of a portion of fees on your 10 replacement and 13 modification satellite applications, you assert that the respective fees for a replacement satellite and modification (by way of an orbital location change) are excessive when compared to the actual regulatory tasks necessary to process these applications. In particular, you state that, at the very least, "advance publication" and "coordination" with the International Telecommunication Union ("ITU") will be completed by INTELSAT before the time of asset transfer.<sup>3</sup> The only aspect of this ITU registration process that might require United States participation is the "notification" stage.<sup>4</sup> Consistent with our rules, you included the entire fee required for the 10 replacement and 13 modification applications. You request, however, that we refund a portion of this payment once the Commission quantifies the amount of administrative work involved in processing them.

The Communications Act of 1934, as amended, and Commission rules provide that application fees may be waived and/or deferred where good cause is shown and where such action would promote the public interest.<sup>5</sup> The schedule of statutory charges in the Commission rules sets a uniform fee for work provided on certain regulatory services, such as those associated with the filing of satellite applications.<sup>6</sup> The charges represent a "rough approximation of the Commission's actual cost" in order to "reimburse the government – and the general public – for the regulatory services provided." We infrequently grant waiver requests, but we believe that, in part, the circumstances present here are extraordinary, and that the consequences of the required fees on the number of applications result in a compelling basis for relief. In a specific situation, the public may be better served in a waiver of the fees than in rigidly imposing the full amount.

The Commission's current schedule of charges (fees) for applications and other filings in the international services assigns a fee of \$89,460 to initial (new) or replacement applications

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<sup>3</sup> "Advance Publication" is the stage in which notice is sent to the ITU and published in a weekly circular. "Coordination" is the stage in which the notifying administration sends a request for coordination with the necessary technical parameters. The ITU examines the information, identifies effected administrations, and publishes the information in its weekly circular. The notifying administration then negotiates agreements with relevant administrations.

<sup>4</sup> "Notification" is the stage in which the notifying administration sends a notice of the completed coordination to the ITU that is then recorded in a master register and provides protection to the satellite network.

<sup>5</sup> 47 U.S.C. § 158(d)(2); 47 C.F.R. § 1.1117.

<sup>6</sup> *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 F.C.C. Rcd (1987) ("Fee Collection Order"), clarified on recon., 3 F.C.C. Rcd. 5987 (1988); Consolidated Omnibus budget Reconciliation Act of 1985, Pub. L. No. 99-272, § 5002(e), (f), 100 Stat. 82, 118-21 (1986).

requesting authority to launch and operate a satellite.<sup>7</sup> Our processing work and review generally associated with these types of satellite applications is comprised of (1) the three stages of the ITU registration process: (2) technical, legal, and financial requirements, including, but not limited to, an adjacent satellite interference and two degree spacing policy analyses;<sup>8</sup> review of ownership and consistency with our requirements; and (3) a public interest determination.<sup>9</sup> In addition, the above would apply to an application to modify a license,<sup>10</sup> to the extent the information required in Section 25.114 of our rules changes.<sup>11</sup>

With respect to the 17 INTELSAT operating satellites, Comsat previously paid the requisite application fees when, at various times, it filed for permission to participate in the procurement of INTELSAT satellites. The Commission, however, will still incur processing costs, most notably for reviewing the two degree spacing issue,<sup>12</sup> the proposed ownership structure and its consistency with Section 310 of the Communications Act,<sup>13</sup> certain technical inconsistencies, such as the issue of linear versus circular polarization, and a general public interest determination. On the other hand, the Commission involvement with the ITU registration process will be significantly reduced since the "advance publication," "coordination," and "notification" stages have already been completed. We reiterate that processing costs were but one factor considered in the rough calculus applied to develop the legislated fees.<sup>14</sup> In this situation, however, that factor along with the previous timely payment of the requisite application fees and the particular limited review necessary for these 17 applications, present good cause. As with any petition for waiver, deferral or other relief, our decision is limited to its unique circumstances and our determination that good cause is shown and that waiver would promote the public interest. Therefore, we waive the fee of \$89,460 required for each satellite application.

With respect to the 10 replacement satellite applications, Commission processing issues require a more comprehensive review and include the same things mentioned above. Although it appears from our prospective view of the applications that portions of the ITU registration process have been completed, additional processing will be required. In addition to the "notification" stage, the Commission will still address the extent to which the proposed satellites are technically identical in order to determine whether to impose any conditions for replacement. From our prospective view, the remaining processing is significant. We are mindful that we may not reduce a fee under Section 8, and our authority to waive or defer payment of application fees is narrowly limited. By seeking reimbursement of a portion of the fee submitted with the application, you ask for a reduction. We do not construe your request as one seeking a waiver of the entire fee, and we cannot otherwise reduce an application fee. Moreover, the submission does not rise to the requisite level of good cause and it does not establish that a waiver would promote the public interest. Accordingly, we deny your request to waive and reimburse a portion of the fees for replacement satellite applications.

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<sup>7</sup> 47 C.F.R. §§ 1.1107.

<sup>8</sup> See 47 C.F.R. §§ 25.114 and 25.140.

<sup>9</sup> 47 U.S.C. § 307.

<sup>10</sup> See 47 C.F.R. §§ 25.117 and 25.118.

<sup>11</sup> 47 C.F.R. § 25.114.

<sup>12</sup> See 47 C.F.R. § 25.140(b)(2).

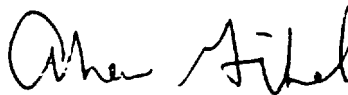
<sup>13</sup> The Communications Act of 1934, as amended, 47 U.S.C. § 310.

<sup>14</sup> *Fee Collection Order, supra.*

With respect to the 13 modification requests, the Commission will accomplish an almost complete technical and legal analysis. In addition, the Commission will need to review the terms of any coordination agreement to confirm that the licensing of these satellites is consistent with other U.S. agreements. We are mindful that the ITU registration process may nearly be complete; however, the submission as to this portion of your Petition does not rise to the requisite level of good cause, and it does not establish that a waiver would promote the public interest. Moreover, as we noted in the previous discussion, we may not reduce an application fee. Accordingly, we deny your request to waive and reimburse a portion of the fees for modification applications.

Therefore, we grant your request for waiver and deferral to the extent indicated in this letter. The total fees due to the Commission for the applications discussed above are \$977,670 and equal to what you remitted.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew S. Fishel". The signature is fluid and cursive, with the first name "Andrew" and last name "Fishel" clearly distinguishable.

Andrew S. Fishel  
Managing Director

cc: Ruth Milkman  
Bert Rein  
Valerie Yates  
Nancy Victory

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

Intelsat LLC )  
 Petition for Waiver and )  
 Deferral of Application Fees )  
 Pursuant to Section 1.1117 )  
 of the Commission's Rules )

**RECEIVED  
JAN 19 2000  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

To: The Managing Director

**PETITION FOR WAIVER AND DEFERRAL  
OF APPLICATION FEES**

Pursuant to Section 1.1117 of the Commission's Rules, Intelsat LLC hereby requests waiver and deferral of application fees associated with its concurrently filed consolidated application ("Application") for authority to operate 17 existing C-band and Ku-band satellites and to further construct, launch and operate additional satellites as part of the privatization of the International Telecommunications Satellite Organization ("INTELSAT").<sup>1</sup> Specifically, Intelsat LLC seeks deferral and waiver of the application fees associated with all of the existing satellites, and waiver and reimbursement of a portion of the application fees associated with the proposed replacement satellites and orbital location changes.<sup>2</sup> The Communications Act and the

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<sup>1</sup> See Application of Intelsat LLC for Authority to Operate, and to Further Construct, Launch and Operate, C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit (to be filed Jan. 19, 2000).

<sup>2</sup> With its application, Intelsat LLC submitted application fees in the amount of \$977,670.00 to cover the 10 replacement satellites (10 X \$89,460 = \$894,600) and 13 orbital location changes (13 X \$6,390 = \$83,070). See 47 C.F.R. § 1.1107(9).

Commission's Rules specifically provide that such fees may be waived and deferred where good cause is shown and the public interest would be served.<sup>3</sup> As detailed below, the unique circumstances associated with Intelsat LLC's Application – particularly the fact that much of the processing work normally associated with typical satellite applications is unnecessary here, as well as the interest of the United States in encouraging a privatized INTELSAT to operate under U.S. authorization – clearly constitute the requisite good cause and public interest basis for waiver and deferral of the relevant fees in this case.<sup>4</sup>

## **I. BACKGROUND**

Intelsat LLC expects to acquire the global satellite system currently operated by INTELSAT as part of INTELSAT's proposed privatization. INTELSAT is an intergovernmental organization formed in 1971 to develop and operate a global telecommunications satellite system.<sup>5</sup> INTELSAT's members (known as Parties) are 143 nations that participate in, and have access to space segment from, INTELSAT through designated Signatories and Investing

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<sup>3</sup> 47 U.S.C. § 158(d)(2); 47 C.F.R. § 1.1117. Parties requesting a waiver may also request that payment of the application fee be deferred for a period not to exceed six months. 47 C.F.R. § 1.1117(d).

<sup>4</sup> Intelsat LLC is not seeking a permanent waiver of, or exemption from, application fees or regulatory fees. Its request is based solely on the unique situation presented by its efforts to license a pre-existing, fully operational satellite system. Once the privatization is complete, Intelsat LLC will be subject to all applicable filing fees and regulatory fees, just like any other commercial entity.

<sup>5</sup> Agreement Relating to the International Telecommunications Satellite Organization "INTELSAT," art. II, Aug. 20, 1971, 23 U.S.T. 3813 ("INTELSAT Agreement") (establishing INTELSAT and defining its purpose "to continue and carry forward on a definitive basis the design, development, construction, establishment, operation and maintenance of the space segment of the global telecommunications satellite system"); *see generally* Operating Agreement Relating to the International Telecommunications Satellite Organization "INTELSAT," Aug. 20, 1971, 23 U.S.T. 4091 ("INTELSAT Operating Agreement") (setting forth the rights and obligations of Signatories).

Entities.<sup>6</sup> Currently, INTELSAT's geostationary satellite system provides space segment capacity for voice, data, video and Internet transmissions to more than 200 countries and territories. Its system plan also incorporates certain replacement satellites and new orbital locations to be implemented in the near future to address customer demands.

At the time INTELSAT was founded, it was believed that only a treaty-based, intergovernmental satellite system would be able to provide expanded communications services to all areas of the world, including regions where the limited traffic base and the financial risks associated with launching and maintaining a satellite system might otherwise foreclose service. The determination that INTELSAT was to be an intergovernmental organization reflected a further consensus that all members, large and small, should have a governance role despite the fact that the system itself would be operated on a commercial basis. In the nearly three decades since INTELSAT's inception, however, the global telecommunications environment has experienced significant growth and change. Today, governments increasingly look to the private sector for their telecommunications services. Accordingly, INTELSAT currently faces intense competition for the provision of global communications services from other geostationary satellite companies, as well as from the emerging low earth orbit satellites and the massive build-out of both consortia and private transoceanic submarine fiber optic cables.<sup>7</sup>

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<sup>6</sup> Signatories are Parties, or telecommunications entities designated by Parties, that use INTELSAT space segment and are the investors in INTELSAT. See INTELSAT Agreement art. I(g) (defining Signatory). Investing Entities are those entities duly authorized by Signatories to receive INTELSAT space segment and invest in INTELSAT. Non-member countries can also access INTELSAT space segment as users. However, such users do not receive an investment share in INTELSAT.

<sup>7</sup> Of the nearly 200 geostationary communications satellites that orbit the earth, INTELSAT owns less than 10 percent. Moreover, undersea cables pose effective competition to INTELSAT.

To preserve and enhance its economic viability in this increasingly competitive global market, INTELSAT's member governments and Signatories have decided to restructure INTELSAT as a privatized, commercial entity. Privatization will give INTELSAT the commercial flexibility to respond to market changes and to compete fairly and effectively, while permitting it to maintain global connectivity and to protect lifeline users who lack cost-effective alternative access to international services. INTELSAT's privatization is a goal supported and encouraged by the Administration of the United States, the U.S. Congress,<sup>8</sup> and the Commission.<sup>9</sup> Indeed, it is the logical next step in the Commission's evolving satellite policy.<sup>10</sup>

The filing of the Application for U.S. licensing of INTELSAT's global satellite system addresses a critical element of the privatization plan. Because INTELSAT is an

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<sup>8</sup> See Open-Market Reorganization for the Betterment of International Telecommunications Act, S. 376, 106<sup>th</sup> Cong. § 2 (1999) (stated purpose is the promotion of "a fully competitive domestic and international market for satellite communications services . . . by fully encouraging the privatization of the intergovernmental satellite organization [ ] INTELSAT. . .") (emphasis added); see also Communications Satellite Competition and Privatization Act of 1999, H.R. 3261, 106<sup>th</sup> Cong. § 2 (1999).

<sup>9</sup> See, e.g., *Direct Access to the INTELSAT System*, FCC 99-236, 1999 FCC LEXIS 4506, ¶ 129 (Sept. 16, 1999) ("*Direct Access Order*") ("privatization is a goal supported by the United States").

<sup>10</sup> In a series of decisions over the past three decades, the Commission has worked consistently to foster greater participation, innovation and competition in the provision of domestic and international satellite telecommunications services. In the 1970s, the Commission first permitted non-governmental entities to construct and operate communications satellite facilities for domestic use. See *Domestic Communication-Satellite Facilities Established By Nongovernmental Entities*, 22 F.C.C.2d 86 (1970), *recon.*, 35 F.C.C.2d 844 (1972), *recon. in part*, 38 F.C.C.2d 665 (1972). In the 1980s, the Commission expanded the opportunities for U.S.-licensed satellites to provide certain international satellite services. See *Transborder Satellite Video Services*, 88 F.C.C.2d 258 (1981); *Separate Systems Providing International Communications*, 101 F.C.C.2d 1046 (1985) (subsequent history omitted). In the 1990s, the Commission eliminated its transborder policy and allowed all U.S.-licensed space and earth-segment operators to provide both domestic and international services, established a framework for non-U.S. licensed satellite operators to provide satellite services in the United States, and issued a decision permitting all U.S. carriers and users direct access to the INTELSAT system. See *Domestic Fixed Satellites and Separate International Satellite Systems*, 11 F.C.C. Rcd 2429 (1996); *Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, 12 F.C.C. Rcd 24094 (1997) (*DISCO II Order*) (subsequent history omitted); and *Direct Access Order*, ¶ 206. In each of these decisions, the Commission has sought to maintain essential coordination with INTELSAT in areas of frequency use, prevention of harmful interference, and

(continued . . .)



intergovernmental entity established by international treaty, its global satellite system, while in existence and fully operational, is not licensed by the Commission or by any other national licensing authority. Intelsat LLC, as a private entity, is submitting the Application so that it may obtain timely authorization to operate as a conventionally-licensed U.S. system without disruption of existing services and service initiatives.

## **II. GOOD CAUSE EXISTS FOR, AND THE PUBLIC INTEREST WOULD BE SERVED BY, WAIVER AND DEFERRAL OF INTELSAT LLC'S APPLICATION FEES**

As described above, FCC licensing of the satellite system of a privatized INTELSAT is a unique event. Never before has the Commission addressed the initial licensing of an already existing satellite system arising from the privatization of an intergovernmental entity. Because of these unique circumstances – particularly, the operational status of the system – many of the types of processing costs the FCC application fees are designed to recover will simply not be incurred here. Moreover, with respect to the existing satellites, any expenses relating to the application costs have already been covered by payments made by COMSAT Corporation. (“COMSAT”), the U.S. Signatory to INTELSAT,<sup>11</sup> in connection with its applications for FCC authority to participate in the launch of the satellites at issue. These unusual circumstances plainly constitute the requisite good cause and public interest basis for deferring and waiving the

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*(... continued)*

use of the geostationary orbit.

<sup>11</sup> The Communications Satellite Act of 1962 declared that United States participation in the global system shall be in the form of a private corporation and called for the establishment of COMSAT, the United States participant in the global system that became INTELSAT. Communications Satellite Act of 1962, Pub. L. No. 87-624, 76 Stat. 419 (1962).

application fees for the existing satellites and waiving and reimbursing some portion of the fees for the proposed replacement satellites and orbital location changes.

**A. FCC Application Fees Are Intended to Recover the Costs of Standard Application Processing**

The Commission's schedule of application fees is intended to reimburse the government for the work involved in providing certain regulatory services associated with the application filings. The Commission established its fee collection program in 1987<sup>12</sup> to implement provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("Budget Act").<sup>13</sup> The Budget Act added a new section 8 to the Communications Act of 1934, as amended, ("Communications Act") prescribing charges for certain regulatory actions taken by the Commission.<sup>14</sup> The Commission noted that "the charges represent a rough approximation of the Commission's actual cost of providing the regulatory actions listed"<sup>15</sup> and explained that "the very core of this effort is to reimburse the government – and the general public – for the regulatory services provided to certain members of the public."<sup>16</sup>

For administrative convenience, the Commission generally classifies the activities it normally performs by type and sets a uniform fee for providing each type of regulatory service.

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<sup>12</sup> *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 F.C.C. Rcd 947 (1987) ("*Fee Collection Order*"), clarified on recon., 3 F.C.C. Rcd 5987 (1988).

<sup>13</sup> Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, § 5002(e), (f), 100 Stat. 82, 118-21 (1986).

<sup>14</sup> 47 U.S.C. § 158.

<sup>15</sup> *Fee Collection Order*, 2 F.C.C. Rcd at 948.

<sup>16</sup> *Id.*

With respect to satellite space stations, the Commission's rules prescribe distinct charges for initial station authorizations,<sup>17</sup> replacement authorizations,<sup>18</sup> assignments and transfers,<sup>19</sup> and modifications.<sup>20</sup> However, in certain, limited instances, the Commission's schedule of filing fees does not reasonably approximate the costs involved in handling a particular application. For this reason, the Communications Act and the Commission's rules allow for parties to seek a waiver of the application fees.<sup>21</sup> The pending Application for authorization of Intelsat LLC's satellite system is the type of unique circumstance that warrants an individualized assessment of the appropriate application fees.

**B. Intelsat LLC's Application Is a Unique Circumstance For Which the Normal Application Fees Are Inappropriate**

As indicated above, Intelsat LLC's Application is a type of filing not previously addressed by the Commission. Unlike the typical application for satellite authorizations, the instant Application seeks the licensing of an *operational*, not a proposed or new, satellite system.<sup>22</sup> Many of the processing activities required for a new system – the costs of which the application fees are designed to recover – are simply not necessary here. This is true both for the

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<sup>17</sup> 47 C.F.R. § 1.1107(9)(a)(i)

<sup>18</sup> 47 C.F.R. § 1.1107(9)(a)(ii)

<sup>19</sup> 47 C.F.R. § 1.1107(9)(b)

<sup>20</sup> 47 C.F.R. § 1.1107(9)(c)

<sup>21</sup> 47 U.S.C. § 158(d)(2); 47 C.F.R. § 1.1117.

<sup>22</sup> But for the fact that INTELSAT currently does not hold FCC licenses for its system, the proposed privatization would more properly be classified as a *pro forma* transfer of control. The Commission has recognized that addressing a transfer of an existing satellite does not entail the same costs as an application for a new space station or replacement satellite – the fee for a transfer application is \$6,390, whereas the fee for an initial satellite application is \$89,460. *See* 47 C.F.R. § 1.1107(9)(a), (b).

satellites already in orbit as well as for the proposed system modifications. These circumstances clearly present the requisite good cause for deferring and waiving the application fees for the existing satellites and waiving or reducing the fees for the proposed replacement satellites and orbital location changes.<sup>23</sup>

*Seventeen Existing Satellites.* The vast majority of the work that normally would be conducted for initial authorizations is not necessary for the authorization of the 17 existing satellites. First, a substantial portion of the application fee for an initial authorization reimburses the Commission for coordinating the satellites internationally. However, all of the existing satellites have already been fully coordinated. That work was done by INTELSAT prior to the time the satellites were launched.

Second, the processing of an initial satellite application typically involves a thorough technical review of the proposed satellite's operations to ensure that it will not cause harmful interference to other communications facilities. In this case, however, the satellites in question have long been operating via co-equal coordination and without causing interference to other space station networks. Further, the Commission has already reviewed the technical aspects of these satellites in connection with COMSAT's applications for launch authority. No further review of the technical aspects of these satellites' operations is warranted.

Third, for initial authorizations, the Commission normally conducts a processing round, in which it "generally attempt[s] to license, from the group of pending applications, the

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<sup>23</sup> Significantly, the Commission does not appear to impose any fee for filings by non-U.S. licensed fixed satellites to obtain authority to serve the U.S. market. Non-U.S. satellite operators can simply file a Petition for Declaratory Ruling, which typically does not require a fee. *Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, 1999 FCC LEXIS 5448, ¶ 10 (Oct. 29, 1999).

maximum number of systems that can be accommodated in the available spectrum.”<sup>24</sup> According to the Commission, “processing rounds often involve new, innovative and commercially unproven satellite services in frequency bands not previously used to provide satellite service.”<sup>25</sup> As a result, a processing round requires significant work by Commission staff. Here, the Commission need not and should not establish a processing round.<sup>26</sup> The Commission is simply being asked to license a pre-existing system that is in-orbit and fully operational.

Fourth, for initial satellite services authorizations, the Commission generally has to ensure that the applicant is technically, legally and financially qualified to construct, launch and operate the new satellite. With respect to the existing satellites, this analysis was largely completed by the Commission in prior proceedings. Pursuant to Commission order,<sup>27</sup> COMSAT applied for the authority necessary to participate in the launch of the 17 existing satellites. In addressing COMSAT’s applications, the Commission completed a “thorough” review of the

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<sup>24</sup> See *DISCO II Order*, 12 F.C.C. Rcd at 24177.

<sup>25</sup> *Id.*

<sup>26</sup> Because the system is already operational and has been coordinated internationally, there are no similarly situated applicants for these orbital slots. Accordingly, Commission consideration of other applications is not required under *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945).

<sup>27</sup> See *Statement of Policy Concerning Procedures Applicable to COMSAT's Applying for Commission Authorization to Participate in Certain INTELSAT Activities*, 46 F.C.C.2d 338 (1974). See also *Communications Satellite Corp., Application for Authority to Participate in an INTELSAT Program for the Procurement of Three Additional INTELSAT V Satellites to be Used as Part of the INTELSAT Communications Satellite System*, 91 F.C.C.2d 197 (1982) (“COMSAT Participation in INTELSAT Program Order”); *Communications Satellite Corp. Applications for Such Authority as May be Necessary in Order for It to Participate in a Program for the Construction of Nine High Capacity INTELSAT V Communications*, 82 F.C.C.2d 377 (1980); Letter from Patricia Benton, COMSAT, to William F. Caton, FCC, Regarding INTELSAT VIII-A Launch Authorization Request (Dec. 19, 1994); Letter from Ellen D. Hoff, COMSAT, to William J. Tricarico, FCC, Regarding INTELSAT VI Launch Authorization Request (Mar. 30, 1987).

“economic, operational, and technical” aspects of INTELSAT’s deployment plan.<sup>28</sup> Because Intelsat LLC will be acquiring the existing satellite business of INTELSAT, it will essentially acquire INTELSAT’s previously approved financial and technical qualifications. Thus, most of this review need not be repeated here.

Finally, and perhaps most significantly, fees equivalent to the costs of initially authorizing these existing satellites have already been paid to the Commission. It is Intelsat LLC’s understanding that, at the time COMSAT applied for authority to participate in the launch of INTELSAT’s existing satellites, COMSAT paid the appropriate application fees to the Commission.<sup>29</sup> Those fees were *identical* to fees paid by commercial entities for initial space station authorizations at that time. Requiring Intelsat LLC to submit initial application fees for these satellites would result in the Commission being reimbursed twice for licensing the same satellites.<sup>30</sup> Such an outcome is neither equitable, nor contemplated by the Commission’s Rules.

For these reasons, good cause plainly exists for a waiver of the application fees associated with the 17 existing satellites at issue here. In conjunction with this request for waiver, Intelsat LLC also seeks a deferral of any payments that may be due with respect to these existing satellites pending Commission action on this request, for a period not to exceed six months.<sup>31</sup>

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<sup>28</sup> See *COMSAT Participation in INTELSAT Program Order*, 91 F.C.C.2d at 199.

<sup>29</sup> The INTELSAT 511 satellite was launched prior to the implementation of the Commission’s fee collection program.

<sup>30</sup> To the extent that the Commission will expend resources in future coordination efforts over the life of the satellites, the Commission will recover those costs through regulatory fees paid by Intelsat LLC as a U.S. licensee.

<sup>31</sup> 47 C.F.R. § 1.1117(d).

*Ten Replacement Satellites and Thirteen Orbital Location Moves.* With respect to Intelsat LLC's request for Commission authorization of 10 replacement satellites and 13 orbital location moves, Intelsat LLC requests waiver and reimbursement of a portion of the fees submitted with the Application. The considerable fees charged for authorization of replacement satellites (\$89,460 per satellite) are based upon the expectation that the processing costs will be comparable to those associated with filing an initial request for authorization. Similarly, the fees charged for orbital location changes (\$6,390 per satellite) are based upon the costs associated with initially coordinating such new locations. However, the regulatory tasks involved in processing Intelsat LLC's applications for authority to launch and operate replacement satellites and to make certain orbital location changes will be significantly less than is typical for such requests. This is because virtually all of the technical, coordination work generally required of the Commission with respect to these applications will have been completed by INTELSAT prior to the time of asset transfer.

Indeed, INTELSAT is already well along in coordinating the proposed replacement satellites and new orbital locations consistent with the ITU registration process. As the Commission is aware, the ITU registration process has three phases:

- Advance publication – in which the relevant administration sends a notice to the International Telecommunication Union (ITU) that is then published in a weekly circular to inform other administrations about the intent to build and operate a satellite network.
- Coordination – in which the notifying administration sends a request for coordination with necessary technical parameters (this occurs not sooner than six months after the date of receipt of the advance publication information). This phase is designed to establish the position of the filing in the queue and achieve compatibility of the filed network with the networks ahead in the queue. The ITU examines the information received, identifies administrations with which coordination may need to be effected, and publishes the information in its weekly

circular. The notifying administration then negotiates agreements with relevant administrations.

- Notification – in which the notifying administration sends a notice of the completed coordination to the ITU that is recorded in a master register and provides protection to the satellite network.

Intelsat LLC anticipates that, at the time of transfer, coordination will be complete through at least the second phase for all 10 replacement satellites and all 13 orbital location moves. Intelsat LLC acknowledges that, at the time of transfer, the United States may be called upon to conduct some third phase residual activities, such as completing coordination and sending the final notice of complete coordination to the ITU. However, these actions constitute only a small portion of the coordination process and only a very minor component of the overall costs the application fees are designed to recover.

Because the Commission will not be required to undertake international coordination on behalf of the INTELSAT satellite system prior to the time of transfer, and as the coordination work is expected to be mostly complete by the time of asset transfer, good cause exists for waiver of a portion of the application fees associated with all 10 replacement satellites and all 13 orbital location moves covered by Intelsat LLC's Application. Intelsat LLC has, however, included with its Application full payment of the fees for all of these replacement satellites and location moves. Intelsat LLC respectfully requests that a portion of this payment be refunded when the Commission is able to quantify the amount of administrative work involved in processing this portion of the Application.<sup>32</sup>

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<sup>32</sup> See, e.g., *Filing Fee Waiver Established for Applications Proposing Geosynchronous Space Stations in Response to Report Nos. SPB-88 and SPB-89 – Cut-Offs Established in the 2 GHz and 36-51.4 GHz Frequency Bands* (Aug. 26, 1997) (Public Notice) (permitting applicants "to file their fee based on the number of orbital

(continued . . .)



**C. The Public Interest Would Be Served by Granting the Requested Waiver**

In addition to being supported by the requisite good cause, a waiver in this case is also clearly consistent with the public interest. Not only would grant of the requested waiver conform reimbursement to the work the Commission actually performs on the Intelsat LLC Application, but it also would advance the interest of the United States in continuing its close relationship with a privatized INTELSAT.

As fully demonstrated above, the requested waiver of application fees would still ensure that the Commission is adequately compensated for the costs of processing the Intelsat LLC Application. Conforming such reimbursement to the work actually performed is plainly the public interest objective underlying the Commission's application fee policy. In contrast, requiring Intelsat LLC to pay the standard application fees established for initial authorizations, replacement authorizations and orbital location moves – thus overcompensating the Commission for the regulatory services provided – is clearly inconsistent with the fee policy's purpose of recouping *actual* regulatory costs, as well as with public interest goals of equity and fair competition.

In addition, grant of the requested waiver would advance the interest of the United States in maintaining its longstanding, close relationship with the INTELSAT system. As detailed in the Application, U.S. licensing of the INTELSAT system and the continuing close connection with the United States will benefit the United States in numerous ways – from a foreign policy

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*(... continued)*

locations they propose to occupy rather than the number of space stations they propose to launch and operate” because the licensing of numerous technically identical space stations in a single orbital location requires the same administrative work as the licensing of a single space station in that same orbital location).

standpoint (because of the system's role as the sole source of connectivity for dozens of developing nations), in international negotiations (because of U.S. control over the system's many orbital locations and frequency registrations), in domestic productivity (because Intelsat LLC would be a major purchaser of construction and launch services), and in ensuring no disruption of service to U.S. customers.<sup>33</sup> Waiver of these unnecessary application fees would facilitate the transfer of INTELSAT's registrations to USASAT status and the accompanying benefits by affirming U.S. support for the privatization process and the willingness of the United States to treat a privatized INTELSAT fairly and equitably.

### **III. CONCLUSION**

For the reasons set forth above, it is evident that good cause exists for, and the public interest will be served by, granting the requested waiver and deferral of the application fees associated with Intelsat LLC's Application to operate the INTELSAT global satellite system.

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<sup>33</sup> For a more detailed discussion, *see* Section IV.C. of the Application.

Accordingly, Intelsat LLC respectfully requests that the Commission promptly grant the instant petition.

Respectfully submitted,

**INTELSAT LLC**

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DATED: January 18, 2000

# Payment Transactions Detail Report

Date: 02/07/2000

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Fcc Account Number	Payer TIN	Received Date							
0001208210394001	INTELSAT LLC	WP00020478		1/19/2000 00:00:0							
	3400 INTERNATIONAL DRIVE NW										
	WASHINGTON	DC	20008								
Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$977,670.00	\$977,670.00	2	BFY	13		INTELSAT LLC	20008		\$83,070.00	1	PMT
\$977,670.00	\$977,670.00	1	BNY	10		INTELSAT LLC	20008		\$894,600.00	1	PMT
Total	2								\$977,670.00		